

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0168P

Gross and Adjusted Gross Income Tax
Calendar Years 12/31/90, 12/31/91, 12/31/ 92, 12/31/93, 19/31/94, 12/31/95, 12/31/96, and
Fiscal Years 09/30/97, 09/30/98, 09/30/99

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated under the laws of New York, was audited for calendar years 1990 through 1996 and fiscal years ending 09/30/97, 09/30/98, and 09/30/99. Upon audit it was discovered that the taxpayer failed to file Indiana income tax returns although it was filing sales tax returns. Taxpayer began filing returns for 9/30/98 and forward in 1999.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for all years of the audit because it failed to file returns for all years with the exception of 1998 and 1999.

Taxpayer, in a letter dated June 25, 2001, protested penalties assessed and states it was its understanding that the penalty was assessed in cases of negligence or a failure to remit trust taxes. Taxpayer further states that neither of those was the case in its situation, and prior to the filing of its 1998 return, income taxes were handled by its former parent. Taxpayer further states there was a miscommunication between the companies as to where nexus existed.

A review of the audit indicates that the taxpayer filed sales tax returns and should have been aware that income tax returns should also be filed. Taxpayer filed returns for 1998 and 1999 but failed to review its prior years' filings.

Taxpayer did not provide reasonable cause.

FINDING

Taxpayer's protest is denied.